

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of: Allan L. Samson et al.

Application No.: 09/489,864

Group No.: 2134

Filed: 01/24/2000

Examiner: Simitoski, Michael J.

For: SYSTEM FOR PREVENTING TAMPERING WITH SIGNAL CONDITIONER
REMOTE FROM A HOST SYSTEM**TELEPHONE INTERVIEW SUMMARY**

Applicant submits this telephone interview summary to meet the requirements of 37 C.F.R. § 1.133(b), and according to the requirements listed in MPEP § 713.04.

Date/Type of Interview: telephone interview conducted on June 23, 2004, 11:00AM

Mountain Time

Examiner: Michael Simitoski

Supervisor: Greg Morse

Name of Applicant's attorney: Gregg Jansen

Exhibits shown or demonstrations conducted: none

Claims discussed:

Independent claim 34

Prior art discussed: Lumsden, U.S. Patent No. 4,388,690

General thrust of Examiner's arguments:

Issue: Whether Lumsden discloses authentication information.

Supervisor Morse started out by stating that a definition of authentication provided from the field of cryptography concerns certainty of a source of a communication or certainty that the received information has not been changed (citing "Applied Cryptography" by Bruce Snyder). Supervisor Morse and Examiner Simitoski asserted that the transponder identification code of Lumsden comprises authentication information.

Attorney Jansen stated that the identifier code of Lumsden is hardwired into the transponder, citing col. 2, lines 48-50 of Lumsden. Attorney Jansen noted that the

hardwired nature of the transponder identification code does not allow changing a digital value in a memory and would prevent the tampering that is the subject of the current application. Attorney Jansen noted that the application defines authentication data as one or more of identification, calibration, or configuration data, and cited page 3, lines 17-20 of the present application. Attorney Jansen stated that Lumsden does not disclose any configuration or calibration data, and does not teach or suggest that a transponder transmit any calibration or configuration data to a central computer.

Issue: Whether Lumsden performs a comparison of authentication information to initial information.

Supervisor Morse and Examiner Simitoski stated that Lumsden performs an equivalent comparison when an electrical power measurement is compared to previous electrical power measurements, wherein some manner of alarm or signal was triggered when electrical power use exceeded a threshold.

Attorney Jansen agreed that Lumsden performs comparisons of electrical power measurements. However, Attorney Jansen replied, the electrical power measurements are distinguishable from authentication information and initial information, and are further distinguishable from configuration and calibration information. The comparison of Lumsden does not cause detection or signaling of a tampering occurrence.

Supervisor Morse and Examiner Simitoski also asserted that the comparison in Lumsden of a transponder identification code is the same as the comparison of the present application.

Attorney Jansen replied that Lumsden uses transponder identification codes for transmitting and receiving communications. Attorney Jansen stated that the comparison is not the same, and the comparison cannot detect tampering.

Issue: Whether Lumsden discloses tampering.

Supervisor Morse argued that Lumsden discloses tampering. Supervisor Morse based this line of reasoning on Examiner Simitoski's rejection. Examiner

Simitoski's previous rejection relied on a dictionary definition of tampering that included "tinkering". Supervisor Morse stated that a consumer in Lumsden committed tampering by using electrical power beyond a prescribed level, wherein such excessive power use was abnormal, thereby comprising tampering. Supervisor Morse concluded that because the power company in Lumsden was trying to prevent excessive electrical power usage at normal peak usage times, the consumer was not authorized to use the power and was guilty of tampering.

Attorney Jansen inquired whether changes in electrical power measurements can comprise tampering. Attorney Jansen contended that such a definition of tampering would encompass most measurements, and such a definition of tampering would be meaningless, as all actions could comprise tampering. The assertion that the act of exceeding an electrical power threshold comprises tampering is illogical, attorney Jansen stated, as a homeowner is authorized and allowed to change his thermostat.

Supervisor Morse replied that Lumsden teaches that excessive power consumption is to be avoided, and that Lumsden implies tampering because the central computer can cut off electrical power if the threshold is exceeded.

Attorney Jansen replied that the power company has authority to cut off power to a consumer, just as the consumer has the authority to set his thermostat, and therefore using excessive power is not tampering. Instead, Attorney Jansen asserted that tampering comprises some illegal or unauthorized access. Attorney Jansen reiterated the purpose of the invention was to prevent unauthorized modification of calibration and configuration data, wherein the measurement ability of an associated measurement device would be compromised. Attorney Jansen concluded that Lumsden does not teach or suggest preventing unauthorized changes to a signal conditioning circuitry in order to compromise the measurement capability and accuracy of the device.

Issue: Whether the patent application provides a definition of tampering.

Supervisor Morse asserted that the present application does not provide adequate boundaries on tampering. Supervisor Morse asked what tampering is limited to in the application.

Attorney Jansen replied that tampering in the context of the patent application comprises requesting and receiving authentication information, comparing it to initial information, and signaling a tampering condition if the authentication information is not equal to the initial information, i.e., detecting whether specific information has been changed.

General thrust of Applicant's arguments:

Agreement reached and general nature of the agreement:

No agreement was reached. Supervisor Morse stated that Applicant's arguments that Lumsden did not perform the same comparison or signaling operations were not argued in the last response by Applicant. Supervisor Morse advised that the arguments proffered by Attorney Jansen in this telephone conference be submitted in a Response.

Proposed amendments: none

Other pertinent matters: none

Date: 6/24/04


SIGNATURE OF PRACTITIONER

Gregg Jansen, Reg. No. 46,799
Duft Setter Ollila & Bornsen LLC
Telephone: (303) 938-9999 ext. 14
Facsimile: (303) 938-9995